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Commissioner for Patents
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In re Application of

Dave W. Gordon

Application No. 09/768,969

Filed: January 24, 2001

Attorney Docket No. 0063948.4

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: DECISION ON PETITION
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This is a decision on the petition filed by facsimile transmission on August 19, 2004 by which petitioner requests withdrawal of the holding that this application is abandoned for failure to pay the issue and publication fees that were due on or before June 25, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive the Notice of Allowance dated March 25, 2004, or any of the attachments thereto. Therefore, the fee could not be paid. While petitioner has provided an adequate showing of non-receipt of the Notice of Allowance in accordance with the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence, the record itself shows that a proper change of correspondence address was filed on November 18, 2003 but the correspondence address of record was not changed. Based upon petitioner's showing, and upon the fact that the Office did not mail the Notice of Allowance to the proper correspondence address, it is clear this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to have the change of correspondence address filed on November 18, 2003 entered into the PALM system. Thereafter, the Head Supervisory Applications Examiner will mail a new Notice of Allowance, together with a complete copy of the Notice of Allowability and all attachments thereto. The period for payment of the Issue Fee will run THREE MONTHS from the date upon which the new Notice of Allowance is mailed, and cannot be extended pursuant to 37 CFR 1.136. **The period for reply to certain requirements that may be set forth on the attached Notice of Allowability with respect to the submission of an oath or declaration, and with respect to certain requirements pertaining to the submission of formal drawings or drawing corrections, can no longer be extended. See 37 CFR 1.85(c), and 37 CFR 1.136(c) as amended, effective November 7, 2000, published at 65 Federal Register 54670 and 54674, respectively.**

After the above mailings are accomplished, the application will be forwarded to the Office of Patent Publication for processing into a patent.

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

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